

## **Proposed Rule on In-Water Boathouses – NR 325**

### **Summary of Rule Proposal**

Minor revisions are proposed to NR 325, the state's rules related to Boathouses and Fixed Houseboats in navigable waters. The revisions clarify a new statutory provision related to Commercial Boathouses built on contaminated lands (brownfields) or blighted areas, provide standards and procedures to qualify for a statutory exception to construction and repair limits, and make some minor housekeeping changes.

Wisconsin Statutes prohibits new construction or placement of a fixed houseboat or boathouse built over the water (sometimes called "wet boathouses"), but there are some exceptions. The rule revisions will help individuals understand if they qualify for an exception, and provide an opportunity to obtain a written certification from DNR, similar to the certification that's currently available for boathouse and fixed houseboat repair.

### **Why is this an issue for our waters?**

In-water boathouses and fixed houseboats are located in the shallow waters that are critical habitat on our lakes and rivers. They also tend to be very visible to folks who are boating and fishing on waterways.

### **Background on Regulations**

Historically, the construction of in-water boathouses was considered to be a right of any waterfront property owner. Beginning in 1933, state law prohibited boathouses and other structures in navigable waters due to navigational concerns. In 1949, a state law allowed property owners to apply for a permit to construct a boathouse or fixed houseboat.

Lawmakers began to recognize the increasing loss of habitat and natural scenic beauty of Wisconsin shorelines, and in 1979 they established a law regulating these structures in section 30.121, Wisconsin Statutes, that remains in effect today. Existing boathouses and houseboats that existed in 1979 were allowed to remain, be maintained and repaired with a cost limit of 50% of the value of the structure over its lifetime. New in-water boathouses and fixed houseboats were prohibited beginning with this same 1979 law.

Over the years, changes to the statute have added four exceptions to the repair limit and construction prohibition for boathouses or fixed houseboats. These exceptions are:

- Structures with historic or cultural value
- Single-story structures over an approved waterway enlargement
- Boathouses damaged by wind, vandalism or fire after January 1, 1984
- Commercial boathouses in certain locations

### **Existing Rules**

NR 325, Wisconsin Administrative Code, was adopted to implement the 1979 law changes. The rule became effective in September 1980 and has been essentially unchanged for the last 24 years. NR 325 establishes a procedure for boathouse owners to contact DNR when they want to do repair and maintenance on their boathouse, and to obtain a written certification from DNR that their project is within the 50% limit.

### **What's being proposed?**

NR 325 has not been updated to reflect the various statutory exceptions that have been added to the statute over the years. The most recent change to the statute was in February of 2004, when the exception was added to allow construction of new commercial boathouses under certain circumstances.

The purpose of the proposed revisions to NR 325 is to modify the existing rule to reflect the four statutory exceptions. The language establishes standards and clarifies procedures for obtaining certification of boathouse or fixed houseboat repair, and creates a comparable procedure for obtaining certification that a project is eligible for a statutory exception. Some “housekeeping” changes are also proposed, to add greater clarity to some of the rule’s definitions and requirements.

## Issues & Alternatives

DNR is interested in your input on the proposed rule revisions. We’d also to hear any additional ideas you may have, and hear your thoughts on some additional ideas listed here:

- Should all boathouse or fixed houseboat repair and maintenance require a DNR certification, to ensure consistency and accurate tracking? - Currently the rule does not require a certification for the first 10% of repair work.
- Should some minor repair items not be subject to the 50% repair limit? – for example the cost of paint or stain.
- Should the boathouse or fixed houseboat owner submit the names of all prior owners back to 1979, to allow for accurate identification of past repair work?
- Should boathouse or fixed houseboat owners who are not the waterfront property owner have a comparable procedure for obtaining certification of repair and maintenance?
- Should enforcement language be modified to improve procedures for addressing abandoned boathouses or fixed houseboats, and to require compliance with the statute and the rule, not just the 50% repair limit?

### What do YOU think?

DNR seeks your input on the proposed rules. You can participate in one of several ways.

Fill out a written questionnaire at a public hearing **open house**.

Send comments over the **internet** at

<https://apps4.dhfs.state.wi.us/admrules/public/Rmo?nRmold=167>

**Testify** at a public hearing (see locations, dates and times by clicking on DNR’s page, then on “Permits & Licenses,” then “Waterway & Wetlands.”)

**Mail** your written comments to Ms. Roberta Lund, DNR-FH/3, P.O. Box 7921, Madison, WI, 53707-7921.

**Comments accepted through August 9, 2004**